IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 7402 of 2005(F)

LRA.78/1990 of APPELLATE AUTHORITY (LR), ALAPPUZHA

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PETITIONER:

SREEKUMARA BHAJANA DEVASWOM
REPRESENTED BY THE UNION SECRETARY, S.N.D.P.,
MUVATTUPUZHA SRI.N. PRABHA, S/O. NARAYANAN,
AGED 56, RESIDING AT PIRAMADATHOTTAM HOUSE,
MARADY VILLAGE, MUVATTUPUZHA.

BY ADV. SRI.K.C.CHARLES

RESPONDENTS:

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1. LAND REFORMS APPELLATE AUTHORITY,
ALAPPUZHA.

2. K.I. KUMARAN, S/O. LATE ITTIATHI,
RESIDING AT KANNAMVELICKAL VEEDU,
EAST KADATHI KARA, VELLOOR KUNNAM VILLAGE,
MUVATTUPUZHA TALUK.

3. K.I. GOPALAKRISHNAN, S/O. LTE ITTIATHI
RESIDING AT KANNAMVELICKAL VEEDU,
EAST KADATHI KARA, VELLOOR KUNNAM VILLAGE,
MUVATTUPUZHA TALUK.

4. ARYADEVI ANTHARJANAM, W/O. NARAYANAN
NAMBOOTHIRI, THENKODATH MANA, KAKKAD KARA,
MEKADAMPU P.O., MUVATTUPUZHA TALUK.

5. NARAYANAN NAMBOOTHIR,
S/O. NARAYANAN NAMBOOTHIRI, THENKODATH MANA,
KAKKAD KARA, MEKADAMPU P.O., MUVATTUPUZHA TALUK.

6. BHADRADEVI ANTHARJANAM,
DAUGHTER OF NARAYANAN NAMBOOTHIRI,
THENKODATH MANA, KAKKAD KARA, MEKADAMPU P.O.,
MUVATTUPUZHA TALUK.

7. SUSHAMA, D/O. NARAYANAN NAMBOOTHIRI
AND W/O. DAMODARAN NAMBOOTHIRI, KALAMPLAVU
ILLOM, KOZHIPPILLY P.O., KOTHAMANGALAM.

8. VANAJA, D/O. NARAYANAN NAMBOOTHIRI
AND W/O. KRISHNAN NAMBOOTHIRI, KIZHAKKUMCHERY
ILLOM, RESIDING AT THAMKODATHU ILLOM,
MEKKADAVU P.O.

R1 BY ADV. SRI.SHYSON P. MANGUZHA,GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 7402 OF 2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE JUDGMENT OF THE APPELLATE AUTHORITY (LAND REFORMS) IN ERNAKULAM LRAS 78/90 DT.28.4.93.

EXT.P2 : TRUE COPY OF JUDGMENT IN OP.11438/93 PASSED BY THIS HON'BLE COURT DT.28.06.01.

EXT.P3 : TRUE COPY OF THE PETITION DT.12.09.01 FILED BY THE PETITIONER HEREIN IN LRA 78/90 ON THE FILE OF THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:

ANNEXURE R1 : TRUE COPY OF THE EXTRACT OF THE CHARGE HANDING OVER REGISTER DT.05.02.2004.

/TRUE COPY/

PA TO JUDGE.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 7402 OF 2005

Dated this the 3rd day of August, 2007

JUDGMENT

The grievance of the petitioner who is the appellant in AA No.26/05 of the appellate authority, LR Alappuzha(originally LRAs No.78/90 of LR Appellate Authority, Ernakulam which was transmitted to LR Appellate Authority, Thrissur) is that AA 26/05 is not being disposed of. According to the LR appellate Authority, Alappuzha they did not have the Lower Court Records(LCR) and if the LCRs are available, they will not have any difficulty in disposing of the appeal early.

2. On hearing the submissions of the learned counsel for the petitioner, this Court on 01.01.07 passed an order directing the learned Government Pleader to get instructions from the appellate authority, LR, Thrissur and also from the Appellate Authority, LR Alappuzha as to whether the records relating to AA 26/05 are available with Appellate Authority, Alappuzha and if not, what steps have been taken for procuring the records. Today, the learned Government Pleader would place before me the file containing conflicting fax messages sent by Appellate Authority Alappuzha and the Appellate Authority Thrissur. According to the fax message of the Appellate Authority, Alapppuzha, the appeal is now posted for hearing on 09.02.07 and that, on account

of the non availability of the LCR the appeal could not be taken up. According to them, the Appellate Authority Thrissur has been addressed by them to furnish the LCRs and that matter has been brought to the notice of the Land Board Secretary also. It is also stated that on 10.01.07 also the Appellate Authority Thrissur has been addressed to furnish the LCR. It is promised that earnest effort will be taken to dispose of the case as soon as the LCRs are available.

3. Appellate Authority Thrissur in their message claims that on 05.02.04 the entire LCR in relation to OA No.18/87, Perumbavoor, the case which is the subject matter of the appeal, were delivered to the Appellate Authority Alappuzha through one V.V.Babu, attender. It is claimed that a receipt in that regard has been given in the office register of the Appellate Authority Alappuzha on 05.02.04. The Thrissur Appellate Authority expresses readiness to produce the register. According to them, it is the Appellate Authority Alappuzha alone which should be called upon to trace out the records even if they are missing.

Having gone through both these messages it appears to me that the version of the Appellate Authority Thrissur is more probable. After all their claim is based on entries in their register. Under these circumstances, I direct the Appellate Authority Alappuzha, 1st respondent, to trace out the LCR in OA No.18/87 by taking whatever

steps are necessary in the matter within one month of receiving a copy of this judgment and to ensure that AA No.26 of 2005 is finally heard and disposed of within another two months from that day.

PIUS C. KURIAKOSE, JUDGE

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